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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,635	05/26/2005	Cynthia Kenyon	023070-119970US	2468
20350 7590 06/21/2007 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			EXAMINER QIAN, CELINE X	
			ART UNIT 1636	PAPER NUMBER
			MAIL DATE 06/21/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/536,635

Applicant(s)

KENYON ET AL.

Examiner

Celine X. Qian Ph.D.

Art Unit

1636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-59 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-59 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claims 1-59 are pending in the application.

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-33, 46, 50-53, drawn to a method for identifying a compound that modulates aging by contacting said compound with a polypeptide encoded by a nucleic acid that hybridize under stringent condition to a nucleic acid listed in Tables 1, or 3-7, and determining the functional effect of the compound upon the polypeptide.

Group II, claim(s) 34, 35 and 57, drawn to a compound that modulates aging process.

Group III, claims 36-45, 58 and 59, drawn to a method of modulating lifespan in a subject by administering an aging modulator to said subject.

Group IV, claims 47, drawn to a *C. elegans* nematode that has a deficiency in at least some cells for an endogenous activity, and has a reduced lifespan.

Group V, claim 48 and 49, drawn to a method of identifying a gene or gene product that modulates aging by using a nematode has a reduced lifespan, introducing a heterologous gene into said nematode, and monitoring an age associated parameter in the nematode of the progeny of said nematode.

Group VI, claims 54-56, drawn to a method of altering lifespan regulation by increase expression of at least two class 1 genes in cell or organism.

PCT Rule 13.2 requires that unity of invention exists only when the shared same or corresponding technical feature is a contribution over the prior art. The inventions listed as Groups I-VI do not relate to a single general inventive concept because they lack the same or corresponding special technical feature. The "special technical feature" of Group I is a

Art Unit: 1636

polypeptide encoded by a nucleic acid that hybridizes to the nucleic acid listed in Table 1, 3-7 and its relationship to aging, this relationship is shown by Barsyte et al. (see IDS) to lack novelty or inventive step over the disclosed relationship, and does not make a contribution over the prior art. The daf-2 gene disclosed in the reference is hybridizable to the daf-12 or 16 listed in table 1 or daf-2 listed in table 3. As such, this technical feature cannot link the invention as a whole to form a single general inventive concept under PCT Rule 13.1.

The invention of the remaining groups each has a unique technical feature not shared by the other groups. The special technical feature of Group II is a compound that modulates aging, which is not shared by the remaining groups. The special technical feature of Group III is use of the compound in vivo for modulate aging, which is not share by the remaining groups. The special technical feature of Group IV is a C. elegans that has a reduced lifespan, which is not shared by the remaining groups. The special technical feature of Group V is a method for identify a gene that modulates aging by using a C.elegans that has a reduced lifespan and introducing a heterologous nucleic acid into said organism, which is not shared by the remaining group. The special technical feature of Group VI is a method for increase the lifespan of an organism by increase expression of at least two class 1 genes, which is not shared by the remaining groups. Therefore, the unity of invention does not exist between the claims of Groups I-VI.

Additionally, each group named above is subject to further restriction. Each group detailed above reads on patentably distinct genes that do not share same special technical feature. Applicant must further elect a single gene or a specific combination of genes. Applicant is further required to distinctly point out the location in the drawings, figures, or SEQ IDs of the

Art Unit: 1636

instant application to which the elected gene is drawn. Please include in the election of sequence or specific combination of sequence the SEQ ID(s), the genebank numbers(s) (or any other identifier), the table or figure number, and the row or column location in the table. This is NOT an election of species. Each molecule of a gene encodes a protein that is chemically and structurally distinct from another gene. As such, they do not share a substantial core structure with each other. Absent evidence to the contrary, each such gene is presumed to represent an independent and distinct invention that does not form unity of invention under PCT 13.1.

Therefore, the claimed method or composition that requires the use of a gene or a combination of genes lack unity with each other. Thus, a further restriction to elect a single gene or a specific combination of genes is required.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In

Art Unit: 1636

either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Celine X. Qian Ph.D. whose telephone number is 571-272-0777. The examiner can normally be reached on 9:30-6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joe Woitach Ph.D. can be reached on 571-272-0739. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Celine X Qian Ph.D.

Application/Control Number: 10/536,635

Page 6

Art Unit: 1636

Examiner
Art Unit 1636

CELINE QIAN, ESQ.
PRIMARY EXAMINER

